



City of Seattle

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3011493

Applicant Name: Richard Fisher

Address of Proposal: 3600 Wallingford Avenue N

SUMMARY OF PROPOSED ACTION

Land Use Application to allow change of use of a 2,500* sq. ft. portion of an existing 4,000 sq. ft. building from retail sales and service to office.

*Submitted plans and application materials identify 2,500 square feet of retail, sales and service use to be changed to office. The project description and notice identified 1,000 square feet.

The following approval is required:

Administrative Conditional Use - To allow the conversion of a nonconforming use to another use not otherwise permitted in a Multifamily Zone (SMC 23.42.110).

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS
☐ DNS with conditions
☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The site is located at the northeast corner of Wallingford Avenue N and N. 36th Street, in the heart of the Wallingford neighborhood. It is zoned L2, as are the surrounding properties. It contains a 1-story building where it has been determined that there are legally established retail

uses in several separate storefronts. JAS Design Build has occupied these spaces for 10 years using them as offices, though without permit. An enforcement action was initiated, resulting in the requirement that the use(s) be legally established or discontinued. A shop associated with the JAS Design Build entity is immediately across the street to the south, and it has recently been issued a permit as a non-conforming use.

The vicinity, although zoned L2, is developed with diverse uses such as single family residences, townhouses, and the legally permitted cabinet shop across N. 35th Street to the south, and small multifamily residential structures.

The adjacent streets are fully improved.

Proposal Description

The proposal is to change a portion of the retail spaces to office use. Under the L2 zoning, commercial uses are not permitted, however SMC Chapter 23.42.110 allows nonconforming uses to change subject to certain criteria. No changes to the structure are proposed.

Public Comment

One comment letter was received, expressing support of the project.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE

The Seattle Land Use Code allows nonconforming uses to change subject to criteria used to evaluate and/or condition the proposal. The applicable criteria are discussed below.

SMC 23.42.110 Change from one nonconforming use to another nonconforming use.

A nonconforming use may be converted by an administrative conditional use authorization to another use not otherwise permitted in the zone subject to the following limitations and conditions.

- A. *In single-family, residential small lot, and Lowrise Duplex/Triplex zones, a nonconforming multifamily use or structure may not be converted to any nonresidential use not otherwise permitted in the zone.*

Not applicable.

- B. *The proposed new use must be no more detrimental to properties in the zone and vicinity than the existing use. This determination shall be based on consideration of the following factors:*

- 1. The zones in which both the existing use and the proposed new use are allowed;*

The existing (“general retail sales”) and proposed (“office”) use are allowed as ground floor permitted uses in the Midrise and Highrise zones, the least intensive zone in which such uses are

permitted outright. They are also permitted uses in the commercial zones, subject to some size limitations. Hence, this factor provides no basis for concluding that there would be more detrimental impacts from the proposed than from the legally established use.

2. The number of employees and clients associated or expected with the proposed use;

The applicant has stated that the JAS office has capacity for 8 to 12 employees, however with the current economic environment this is less. Customers are client based and usually have scheduled appointments. Approximately 2 to 4 clients may be on site at any one time. It is reasonable to assume that general retail, sales and service uses generate more activity than office employees and scheduled clients. On this basis, the proposed use is likely to be less detrimental to properties in the zone and vicinity than the legally established use.

3. The relative parking, traffic, light, glare, noise, odor and similar impacts of the two uses and how these impacts could be mitigated.

It is assumed that retail, sales and service uses generates more customers than the number of employees and clients associated with the office use. Retail uses are likely to be associated with more traffic to and from the site, a greater parking demand, and light and glare impacts associated with longer hours of operation. Odor impacts should be non-existent with either use. No mitigation is required.

C. Regarding caretaker's unit

Not applicable.

D. Parking requirements for the proposed use shall be determined by the Director.

No parking is located on site. The applicant submitted a parking utilization study in association with the project across the street (DPD Project No. 3011029) showing that 226 on-street parking spaces are available within 400 feet of the subject site. On the two afternoons when parking was assessed, the average utilization rate was 70%. 67 parking spaces were, on average, available during the day. These figures would include the vehicles associated with the proposal site, as it is currently operational. Thus, the proposed use does not adversely affect on-street parking in the vicinity. Even so, JAS Design Build provides Orca passes to its employees. No additional parking requirement is warranted.

E. If the new use is permitted, the Director may require mitigation measures, including but not limited to landscaping, sound barriers or fences, mounding or berming, adjustments to yards or parking standards, design modification, or limiting hours of operation.

The Land Use Code allows this type of change from one nonconforming use to another so long as the impacts to the surrounding properties are not greater than the existing condition. Because this site has been in commercial use for decades and the prior use was more intense, no significant impacts are expected due to parking, traffic, light, glare or odor. Therefore, no mitigation measures are warranted.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The proposed Administrative Conditional Use to allow the change from one nonconforming use to another is **GRANTED**.

CONDITIONS

None.

Signature: _____ (signature on file) Date: October 25, 2010
Stephanie Haines, Senior Land Use Planner
Department of Planning and Development

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